

ARIZONA INDEPENDENT REDISTRICTING COMMISSION

Friday, December 21, 2012
11:03 a.m.

LOCATION

Evans House
1100 West Washington Street
Phoenix, Arizona 85007

ATTENDING

Colleen C. Mathis, Chair (telephonically)
Jose M. Herrera, Vice Chair (telephonically)
Scott Day Freeman, Vice Chair
Linda McNulty, Commissioner (telephonically)
Rick Stertz, Commissioner (telephonically)

Raymond F. Bladine, Executive Director
Kristina Gomez, Deputy Executive Director
Buck Forst, Information Technology Specialist
Andrew Dreshler, Mapping Consultant (telephonically)
Mary O'Grady, Counsel, Osborn Maldeon (telephonically)
Joe Kanefield, Counsel, Ballard Spahr (telephonically)

PREPARED BY

AZ Litigation Support, LLC
Susan A. Grenz, CCR
Certified Reporter
CR No. 50720

CHAIRPERSON MATHIS: This meeting of the Arizona Independent Redistricting Commission will now come to order.

Today is Friday, December 21st, and the time is 11:03 in the morning. Let's all rise for the pledge of allegiance. I'm assuming there's a flag there at Evans House?

MR. BLADINE: Yes. Do you want us to start?

CHAIRPERSON MATHIS: Yes. Why don't you go ahead and lead it, Ray.

(Pledge of allegiance recited.)

CHAIRPERSON MATHIS: Great. Thank you. We'll go ahead and move to the agenda. The first item is the call to order. Vice Chair Freeman?

VICE CHAIR FREEMAN: Here.

CHAIRPERSON MATHIS: Vice Chair Herrera?

VICE CHAIR HERRERA: Here.

CHAIRPERSON MATHIS: Commission McNulty?

COMMISSIONER McNULTY: Here.

CHAIRPERSON MATHIS: Commissioner Stertz?

COMMISSIONER STERTZ: Here.

CHAIRPERSON MATHIS: We have a quorum.

And other folks in the room and on the

phone, it sounds like Mary O'Grady is dialing in, our counsel, and Joe Kanefield I assume is in the room.

MR. KANEFIELD: Yes.

CHAIRPERSON MATHIS: Great.

And we have Andrew Dreshler from Strategic Telemetry on the line.

MR. DRESHLER: Yes.

CHAIRPERSON MATHIS: And then our staff includes Ray Bladine, our executive director, our deputy executive director is Kristina Gomez, and we have Sue taking an accurate record today of our meeting.

And so be sure to try to remember to repeat your name -- or state your name before you start speaking so that she knows who to ascribe the comments to.

And is there anybody in this --

MR. BLADINE: We have an audience of two.

CHAIRPERSON MATHIS: Okay.

MR. BLADINE: And I don't know whether you'd like us to -- one is our intrepid follower Evan, and -- well, actually there's two intrepid followers -- and Mr. Alexander --

CHAIRPERSON MATHIS: Okay. Great.

MR. BLADINE: -- Thatcher.

Oh, I'm supposed to use my microphone.

CHAIRPERSON MATHIS: I can hear you well.

MR. BLADINE: Okay. I might also comment, Joe, I believe, is on the line. He's not physically here.

CHAIRPERSON MATHIS: Oh, thank you.

Okay.

Okay. Well, with that we can move to agenda item number II. And for the record, I'll go ahead and just read that: "Legal advice, direction to counsel, discussion and possible action regarding (1) Court of Appeals decision in State v. Mathis; (1) counsel for individual commissioners regarding discovery in pending litigation; and (2) an update on other pending court challenges. The Commission may vote to go into executive session, which will not be open to the public, for the purpose of obtaining legal advice and providing direction to counsel."

So with that, I assume I will turn this over to either Joe or Mary to give us give us some update on the recent litigation.

MR. KANEFIELD: Madam Chair, this is Joe Kanefield. I'll start.

What I thought I'd do is just briefly give the Commission an overview of the four legal challenges currently pending, and that will be followed by a recommendation that the Commission go into executive session to receive legal advice.

The first case I'll mention is the Leach v. Harris case. That is the state court action challenging the congressional lines. The status of that case is that we are -- the court has ruled on the Commission's motion to dismiss. It granted the Commission's motion to dismiss in its entirety but allowed the plaintiffs to refile, which they have done, and as a result, the Commission has subsequently followed up with an answer and also a motion to dismiss three counts from the -- I'm sorry -- two of the counts that were originally discussed in the court's order granting the motion to dismiss.

Even after the plaintiffs refiled, they repleaded those counts that the court should be inclined to dismiss. We have, once again, moved to dismiss those.

One of the counts that the court dismissed the plaintiffs have stipulated to dismissing, but they have reserved their right to appeal.

So we are essentially at this point moving forward on three of the claims that are -- which take us to discovery, and our disclosure statements are due in midJanuary, and then we will proceed to more discovery at that point.

The second case is the case brought by the Arizona Legislature against the Commission challenging the constitutionality of the laws that create the Commission as being in conflict with the election clause of the United States Constitution. That is currently pending in Federal Court.

The Commission moved to dismiss, the Legislature responded, the Commission replied. The briefing has been complete for about three or four months now.

We are waiting for the judge to schedule the case for oral argument. We anticipate that could happen any day, and then that argument will obviously occur, and we'll go from there, based on the judge's ruling.

The Harris case is the case in federal court. That is the case challenging the legislative lines, the equal protection, one person/one vote claim, arguing that the deviation -- population deviation among the districts isn't justified by any

reasonable -- by any reasonable basis.

The court, as you know, has denied the Commission's motion to dismiss the case for failure to state a claim and has expedited the proceedings, and we will have a trial at this point that will begin on March 25th, which will be a six-day trial. And everything is backed up from that trial, which includes expedited discovery, and we've filed motions asking for the court to abstain from at least hearing the state court challenges and -- or certify those questions back to the state court.

Without going into too much detail now, the court has yet to rule on those motions but has instructed the parties to proceed towards trial in March, which we are preparing to do.

The last case is the State V. Mathis case. This is our open-meeting case that was recently resolved by the Arizona Court of Appeals in an opinion affirming the trial court judgment below that the open-meeting investigation was not based on reasonable cause and dismissing the matter.

But in that process, in the process of ruling in favor of the Commission, the court also addressed several of the legal arguments raised by the Commission, which I won't go through right now

because it's quite lengthy.

But we do have a decision to make at this point because the Court of Appeals' opinion is final, and the Commission must decide at this point whether -- as the plaintiff, whether there are any grounds to move the case to the Arizona Supreme Court on appeal.

So I think unless there's any questions generally about the status of the cases, our recommendation as counsel would be to go into executive session so you can receive legal advice.

CHAIRPERSON MATHIS: Okay. Thank you, Mr. Kanefield.

Any questions for Mr. Kanefield?

Okay. Hearing none, I would entertain a motion to go into executive session to obtain legal advice from any commissioner.

MS. McNULTY: This is Linda. I'll move that we go into executive session for the purposes stated on our agenda.

VICE CHAIR HERRERA: This is Jose. I'll second that.

CHAIRPERSON MATHIS: Okay. Any discussion?

All in favor?

VICE CHAIR HERRERA: Aye.

COMMISSIONER STERTZ: Aye.

MS. McNULTY: Aye.

VICE CHAIR FREEMAN: Aye.

CHAIRPERSON MATHIS: Aye.

Any opposed?

Okay. With that, the time is 1:13 p.m.

We'll exit out of public session and get started once we've got the public cleared from the room.

Okay.

I'm sorry. It's 11:13 a.m.

MR. BLADINE: If we could ask for all of you to either go over and wait in the restaurant and we'll come and get you as soon as the E session ends. That's probably the nicest place. And if you're going to be someplace else, if you'd let the staff know, we'll come to call you when we're back.
Okay?

CHAIRPERSON MATHIS: Good.

(Public excused.)

MR. DRESHLER: This is Andrew and Willie Desmond is on the line, and we will be hanging up at this time.

CHAIRPERSON MATHIS: Okay. Great.

(WHEREUPON, the public session recessed

and executive session ensued.)

CHAIRPERSON MATHIS: The time is 11:46 a.m. We'll enter back into public session.

Is there anything any commissioner wanted to discuss based upon what we heard in executive session?

Okay.

Is there any action that anyone wanted to take based upon legal advice from executive session?

MS. McNULTY: I'd like to -- Madam Chair, this is Linda. I'd like Joe to read us his recommendation on retaining counsel.

CHAIRPERSON MATHIS: Okay. Mr. Kanefield?

MR. KANEFIELD: Madam Chair, this is Joe. Our advice is that the Commission authorize the hiring of counsel for individual commissioners regarding discovery in the pending litigation if requested by the individual commissioner and if the Commission counsel believes that the hiring of individual counsel for the individual commissioner is in the Commission's best interest.

MS. McNULTY: And I'll move that we do that.

CHAIRPERSON MATHIS: Is there a second?

VICE CHAIR HERRERA: Jose. I second the motion.

MR. BLADINE: Was that a second? I'm sorry. We didn't hear here.

CHAIRPERSON MATHIS: Sorry. I think Jose seconded that.

VICE CHAIR HERRERA: Sorry. I had my teeth worked on this morning and my mouth --

MR. BLADINE: Jose, we can't hear you, and all I heard was your -- you had your teeth worked on so you're not able to speak very well, but if you can try to slow down, it would help.

VICE CHAIR HERRERA: Yes. I'm seconding the motion.

CHAIRPERSON MATHIS: Okay. we have a motion that's been seconded.

Is there any discussion?

MS. McNULTY: Madam Chair, this is Linda. I would ask that Joe or Mary explain why they are recommending to us at this time that we do this.

CHAIRPERSON MATHIS: Thank you.

Joe or Mary?

MR. KANEFIELD: Madam Chair, this is Joe. We are entering into the discovery phase in both the federal litigation, in the Harris case and also the

state litigation, in the Leach case.

We perceive that there could be a potential for an individual commissioner to need counsel with respect to discovery questions that may arise. We haven't seen a situation identify itself yet, but the possibility could come up.

We thought that it may make sense for the Commission, in advance of the discovery, to make this authorization, recognizing that at least the federal lawsuit is moving at a very expeditious pace and that if the need did arise that we would have the authorization to move forward with obtaining counsel for the commissioner.

CHAIRPERSON MATHIS: Ms. McNulty, did you have anything else on that?

MS. McNULTY: Madam Chair, I will say for the record that I hope this isn't necessary, that I don't like the fact that our counsel needs to recommend this to us. I hope we don't need to take advantage of it.

But at the same time, what's happening in these lawsuits so distorts therecord of the work that this Commission has done and is so unfair and it's really so beyond the pale that I feel it's important that the tools are available to us should

we need them, the tools, legal tools.

CHAIRPERSON MATHIS: Thank you.

Any other comments from other commissioners?

VICE CHAIR HERRERA: Madam Chair.

CHAIRPERSON MATHIS: Go ahead, Mr. Herrera.

VICE CHAIR HERRERA: Now --

MR. BLADINE: Jose, could you be a little louder, please?

VICE CHAIR HERRERA: Yes.

MR. BLADINE: Thank you.

VICE CHAIR HERRERA: Currently three of the five commissioners have attorneys that are representing them through some of these cases.

Now, what happens with the other two individual commissioners that do not have individual representation? How do we go about getting them representation if they choose to do so?

MR. KANEFIELD: Madam Chair, Mr. Herrera, the counsel that the commissioners currently have was authorized by the Commission for purposes of providing representation in the State v. Mathis case. That's the open-meeting case that was recently resolved by the U.S. Court of Appeals.

What we are recommending today is that the Commission authorize the hiring of counsel for the individual commissioners in the other cases for discovery purposes, if requested and if deemed appropriate by the Commission's counsel.

CHAIRPERSON MATHIS: Any other questions or comments?

VICE CHAIR HERRERA: Madam Chair?

CHAIRPERSON MATHIS: Mr. Herrera.

VICE CHAIR HERRERA: I have one more question for Mr. Kanefield. If this vote were to pass, would we have to go through the same process having to locate counsel to represent us or could we use the same attorneys representing us before?

MR. BLADINE: Jose, unfortunately, you're not coming clear enough for the court reporter to hear you.

Could you try one more time? I'm sorry.

VICE CHAIR HERRERA: Sure, sure. I'll try again. I apologize.

If this vote were to pass, how would we move forward? Would we retain the same attorneys that were representing us before or would we have to go through the whole process again starting --

MR. KANEFIELD: Madam Chair, Commissioner

Herrera, let me restate the question in case the court reporter didn't get it.

I think you were asking the question if the Commission votes to pass this proposal and the individual commissioners that currently have outside counsel in the State v. Mathis case wish to obtain counsel in one of the pending cases, would they be able to use the same counsel that they are currently using?

And I think the answer to that question is I don't -- I don't necessarily know the answer to that question.

I think that, obviously, what we are recommending is that the Commission authorize the individual commissioners to have outside counsel, if they request it and if the Commission's counsel believes it to be in the best interest of the Commission.

At that point, we would then engage in a process of acquiring outside counsel for the individual commissioners, and they obviously would want to follow that process as we did before, which may or may not result in the same attorneys being assigned to the individual commissioners. But we'd have to wait for that request to come in.

Mary may have --

MS. O'GRADY: Yes, I agree with Joe.

Those are issues that we'll deal with at the time in terms of specifically which counsel to retain.

And, again, hopefully it's not necessary. Hopefully we can just proceed with the representation as it has been. But as Joe mentioned, we just are proposing this in case it becomes necessary in the course of discovery. And so we'll deal with those, and then we'd go through the process for retaining counsel.

But I agree with what Joe said in terms of it may or may not be the same person. But hopefully we don't need to -- hopefully this doesn't come up. We're just trying to be prepared.

VICE CHAIR HERRERA: Madam Chair.

CHAIRPERSON MATHIS: Mr. Herrera.

VICE CHAIR HERRERA: Let me -- the comments that were made by Ms. McNulty that I hope it isn't necessary to have to retain outside counsel, but I agree with our counsel that we should be prepared and hopefully we (indiscernible).

CHAIRPERSON MATHIS: Thank you.

Any other comments?

Okay. We'll take the vote then.

All in favor?

VICE CHAIR HERRERA: Aye.

MS. McNULTY: Aye.

CHAIRPERSON MATHIS: Aye.

VICE CHAIR FREEMAN: Aye.

COMMISSIONER STERTZ: Aye.

MR. BLADINE: Madam Chair, could we ask
for a roll call so we can get who voted?

CHAIRPERSON MATHIS: Sure.

Commissioner Freeman?

VICE CHAIR FREEMAN: Aye.

CHAIRPERSON MATHIS: Commissioner
Herrera?

VICE CHAIR HERRERA: Aye.

CHAIRPERSON MATHIS: Commissioner
McNulty?

MS. McNULTY: Aye.

CHAIRPERSON MATHIS: Commissioner Stertz?

COMMISSIONER STERTZ: Aye.

CHAIRPERSON MATHIS: And I, Colleen
Mathis, also say aye.

So it appears it would be unanimous.

Thank you, counsel, for the advice and
your continued work on all this litigation defending
the Commission. We really appreciate it.

MS. McNULTY: I second that.

CHAIRPERSON MATHIS: With that we'll go to the next agenda item, which is number III: Executive director will summarize recent staff activities and answer questions. He will also review the following: A) review budget report and discuss fiscal year 13; b) fourth quarter allotment advance transfer; c) fiscal year supplemental request; and d) discuss fiscal year 14 appropriation."

So I assume Mr. Bladine is taking over, but it could be Ms. Gomez.

MR. BLADINE: Madam Chair, I thought I would go ahead and let Ms. Gomez start since she worked on the most recent budget review we sent you that was done in conjunction with the board's office. So I'll let her start, and then we'll just kind of work through this together.

CHAIRPERSON MATHIS: Great. Thank you.

MS. GOMEZ: Thank you. Madam Chair, Commission members, recently staff activities have been the following: Lisa Schmelling and Shane Shields are continuing to help legal counsel with data collection so they've been busy working with the discovery part of the lawsuit.

They're also responding to public

questions that still continue to come in. They're also taking public input, which is very minimal at this time, and they're also doing research on media articles out online, and they are also archiving all documents.

Anna Garcia, she continues to process all of your invoices. She checks those invoices for accuracy. She is also organizing all of our financial documents. She's preparing the documentation and assisting Ray and I for the supplemental request phase, and she will also be helping us with FY 14 appropriation requests starting in January.

And we're also anticipating another audit, so she is actually our support staff for that as well.

Next is the fiscal year 13, the current budget. And I went -- I walked through this budget with Megan Derian with the state board's office. She is our fiscal oversight of our budget.

And right here on the budget you'll see that we actually have a December column for the budget -- that's actually the first column -- and in the tan color, that's the projection, and the column next to it with the actuals in red, that's how much

we've spent so far this month, and that's \$11,357.

You will also notice that at the bottom of the sheet, Megan went ahead and I asked her to incorporate all of the exact amounts for each allotment quarter, so you can see why we needed to ask for that allotment transfer.

We still haven't received word yet from the general accounting office if this allotment has been transferred or has been allowed. We hope to find that out pretty soon here. But last year when we sent out our initial letter for the first allotment transfer, we sent our request in December and we got the official approval back in February. So we're hoping to get a letter back soon from Mr. Partridge.

And I believe that's it so far with item a and with item b.

CHAIRPERSON MATHIS: Thank you very much, Ms. Gomez. This is Colleen.

Can I ask a question?

MS. GOMEZ: Sure.

CHAIRPERSON MATHIS: You mentioned that you're anticipating another audit.

MS. GOMEZ: Yes.

CHAIRPERSON MATHIS: How often are the

audits conducted? And just if you could kind of clarify the process and how it's moving along, because I'm not sure of it anymore.

MS. GOMEZ: Well, the reason why I say that is because after our last discussion with the state comptroller, Mr. Clark Partridge, he informed us that his office would be reviewing all invoices month by month.

Now, we just received a letter from his office stating that they see no problem at this time with our expenditures, but during that initial meeting, he did state that there is a possibility of a full-blown audit by his department at the end of this fiscal year.

CHAIRPERSON MATHIS: Okay. We had a full-blown audit already, right?

MS. GOMEZ: Yes, we did.

CHAIRPERSON MATHIS: Okay. So this would be another one?

MS. GOMEZ: Yes.

CHAIRPERSON MATHIS: And I want to congratulate you and Mr. Bladine and Ms. Garcia and anybody else who worked with them to accomplish all that you did, supply all the information, and you did a fantastic job.

And I saw that letter that came from them saying this that they saw no issues at this time, and you just are to be commended for that work.

Thank you.

MS. GOMEZ: Thank you, Madam Chair.

VICE CHAIR HERRERA: Madam Chair?

CHAIRPERSON MATHIS: Mr. Herrera?

VICE CHAIR HERRERA: Yes. I have a question for Ms. Gomez. When was the -- we've had one full -- one complete audit. When was that completed? Unless we've had more than one, but I don't think we have so far.

MS. GOMEZ: The Auditor General I believe was completed September.

VICE CHAIR HERRERA: September?

MS. GOMEZ: Yes.

VICE CHAIR HERRERA: Do you recall how long the process took with that initial audit?

MS. GOMEZ: Sir, the audit conducted by the Auditor General, our first meeting was in April, and they completed their report in September of 2012.

VICE CHAIR HERRERA: Do you how much staff time that took, out of curiosity?

MS. GOMEZ: We do have that in a document

that we can forward to the entire Commission.

VICE CHAIR HERRERA: Sure. If you sent it already, I apologize, I just don't recall it. I'd love to see it.

The reason I ask is I find it unusual that one full-blown audit was done and ended in September and then they're wanting to do another full-blown audit before the end of the fiscal year, which ends in June, June 30th. Is that correct?

MS. GOMEZ: Yes.

VICE CHAIR HERRERA: Because I find it unusual and I think out of the ordinary. But I, again, wanted to get full clarification, and if you have that information in terms of the amount of money that was spent, especially at that time, out of curiosity, what -- the time that we dedicated to helping Goddard, and I'm assuming if it's another full-blown audit, it will be replicated, it will be the same amount of time if there is another audit. I would love to see that information.

CHAIRPERSON MATHIS: Any other comments or anything for Ms. Gomez on this?

Okay. It doesn't sound like there are any.

MR. BLADINE: Shall I go ahead, Madam

Chair -- this is Ray Bladine --

CHAIRPERSON MATHIS: Okay.

MR. BLADINE: -- and discuss the supplemental?

CHAIRPERSON MATHIS: Yes, please.

MR. BLADINE: I guess I would start off by saying we find ourselves kind of where we did last year of trying to estimate things that are not clear as to what's going to happen and when, and we put off as long as we could trying to come forward with the supplemental request to try to get as much information as to what our costs have been to date.

I think it's pretty clear to us, taking a look at what has happened just in the last few weeks in terms of December billing, which isn't reflected yet on the sheet that Kristina talked about but is in the memo under the background section that talks about \$156,000 for legal fees in November that are going to be payable in the month of December. And that's far above what we have budgeted or available to carry out that task.

As I will remind everyone, that when we went to the legislature for a supplemental request this last year, we were given 700,000 out of the 2 million -- roughly \$1,200,000 request, and at that

time, we all believed there would possibly be no litigation. Shame on us. Now there is litigation and our costs are going to be considerably higher.

Similarly, we submitted our budget for '13 for 1.7 million and it was reduced to 1.4, and, again, did not believe there would be litigation.

So things have changed pretty dramatically since we put together our original '13 request and also in terms of what we're going to need to complete this year.

As we've all talked before, it's very hard to anticipate and identify for sure what the requirements may be for us to be able to adequately defend the Commission. So what we did is we took an approach that tried to look at two different things, which were the only things we could put our hands.

One was the summary of litigation expenditures in 2001, and you can see in the report we prepared for you, there was a total spent of \$3,268,000 for litigation during the 2001 litigation expenditures.

And we took that and said, okay, they had three cases. Divided by three, that's about \$1 million a case. We have four. It could be that we could be in that range.

We then took and inflated the figure from 2001 and figured out what the estimated deficit would be between what we have funded now and what would be the cost of roughly doing one case at this time, and that deficit, then, was the 712,000 that we showed in the first -- second page of the report.

The other thing that we think probably we need to address is, last time the Commission also had -- last time the Commission had to redraw maps, and if we were put in a position where a court would order us to redraw maps, I think we want to be where we'd be able to quickly respond and do what a court ordered us to do.

Last time the cost was about 669,000 inflated -- 649,000 inflated to what today would be about 811,000. So one of the proposals we have is that we should include some money in case there's the possibility that we are asked to redraw.

The next approach we took is we asked our legal counsel to give us a rough idea of what they think the current costs over the next year might be, and that is the \$932,000, and it basically would relate to the Harris defense because we don't know a lot about the other cases. There is some money, as I recall in the estimate, for other cases, but the

vast majority would be for the Harris versus Arizona.

Again using that estimate and subtracting the 649,000 that we have available, we'd have a deficit of about 232,000 by the end of this year that we would need to -- 282,367 that we'd need by the end of this year to finish -- or defend ourselves.

Again, if you take and add to that the 811,250 to make sure we have funds to redraw a map, you'd come up about -- it comes up with 1,093,617 for that analytical approach.

I'm sorry there's so many numbers in this because it's hard to keep straight.

But I think the bottom line is the three components we tried to look at were, one, what are the likely costs for litigation we know about; two, what might be an amount that we should set aside in case we were to need to redraw; and then three, which we've asked for before, and that is to have a reserve fund, because we cannot estimate our legal costs very well, and that's the same problem the last commission had.

They had to go back twice for supplementals. However, they had a \$6 million

starting figure that put off their first request to about this time in their lifetime.

Our thought is that we should request at this time a supplemental of probably \$2,023,000, which would be taking the higher of the cost, which is the analysis of the 2001 costs, and adding to that the updated cost for possible mapping of 811,000 roughly and then a \$500,000 contingency.

I think we've all seen this last year that things move fast and very quickly. While the legislature moved quickly last year, we were down into a couple weeks where it was very difficult to know whether we were going to get an appropriation we needed or whether we had to go to court.

The legislature did not want to do that; neither did we. But I would like to hope that we could have enough funding so we could meet the contingencies as they come.

I'm also concerned that if we don't, we could end up having to request a special session of the legislature at some time, and I don't think anybody wants to do that either.

So that, in essence, is the logic behind our tentative request, and I'd certainly welcome any input from the commissioners as to how they believe

we should proceed.

CHAIRPERSON MATHIS: Thank you, Mr. Bladine, and thanks again to all of you for pulling all this information together for us so we could consider it today.

Any questions for Mr. Bladine?

VICE CHAIR HERRERA: Madam Chair?

CHAIRPERSON MATHIS: Mr. Herrera.

VICE CHAIR HERRERA: Yes. My phone is (indiscernible). I'm going to hang up and use another phone so I'll be hanging up and I'll be right back.

CHAIRPERSON MATHIS: Okay. Well, I'm hopeful that Mr. Herrera is calling us right back.

Is there anything anyone wanted to comment on or ask questions of Mr. Bladine, and we can fill Mr. Herrera in, if necessary?

MS. McNULTY: Madam Chair, this is Linda.

CHAIRPERSON MATHIS: Go ahead, Linda.

MS. McNULTY: Ray, do you -- are you requesting that we take action today, or, if not, when is it that we will need to -- do we need to take action at some point and, if so, when?

MR. BLADINE: Madam Chair, Commissioner McNulty, in the past we have not asked you to

officially bless the amount but have discussed it with you and then proceeded to go to the legislature and talk about it. And I think we've taken that approach so that there was flexibility to whatever the legislature could work out and keeping you informed would get the job done.

However, certainly if the Commission wants to adopt a specific amount for us to request, we would need to be told that, and we are not posted for you to take action.

So I guess what I was hoping was just kind of getting some direction from you whether we're going in the right direction or not.

We would like to start in the next week or two to get this information out to the legislative leadership and to the Governor's office so that it's early in the budget process.

VICE CHAIR HERRERA: Madam Chair, sorry about that.

CHAIRPERSON MATHIS: Okay. Thank you.

MS. McNULTY: Madam Chair, this is Linda again.

Jose, for your benefit, I asked Ray if we needed to take action and, if so, when, and he reminded me that the way we've done this in the past

is that he's given us an update and we've relied on him to work through this with the legislature, which is what I think we should do from my perspective again this time.

And I would just say -- and Colleen just said that -- I really appreciate you putting this information together for us, you know, and Kristina. This is an impossible thing you do. You're so kind about it. You say it's difficult to estimate it. It's impossible to estimate, but you've really given us the best information you can, and I appreciate that. So I would support you proceeding in the direction you're moving.

CHAIRPERSON MATHIS: Any comments or questions for Mr. Bladine?

Okay. Mr. Bladine, did you have anything else for us?

MR. BLADINE: No, Madam Chair.

We will -- as we indicate in this memo, we'll start down the process using the figure we outlined, and we will, as we did last time, copy you with all of the communications we have with the Governor's Office and the legislature and keep you informed as to how it's progressing so that any time you want to ask questions, we will be available, and

if we need to have a meeting, we certainly can do that.

But I think we're fine. Thank you.

CHAIRPERSON MATHIS: Great.

I just have one question. On the letter to Mr. Arnold requesting the fourth quarter be advanced to the third quarter, that has already been mailed, right? That was sent December 17th?

MR. BLADINE: That's correct, Madam Chair.

CHAIRPERSON MATHIS: Okay. And so we anticipate hearing from them sometime soon, we hope.

MR. BLADINE: Correct.

CHAIRPERSON MATHIS: Okay.

MR. BLADINE: Just as adding information to that, we did a quick analysis in terms of how much allotment we might have -- or we will possibly have between now and the end of this month, and it's about \$76,000, which will mean that we'll pay some of our bills in December and some the first of January.

So it's very close again, but we'll get through this quarter, but we really need to have the fourth quarter advance, and then we'll need the supplemental to be able to finish the fiscal year.

CHAIRPERSON MATHIS: Okay. Great. Thank you.

Okay. With that, are there any other comments from counsel or commissioners on anything that we needed to bring up now?

Okay. Hearing none, the time is 12:19 p.m., and this meeting is adjourned. Thank you.

(Meeting adjourned at 12:19 p.m.)

I, SUSAN A. GRENZ, Certified Reporter No. 50720 for the State of Arizona, do hereby certify that the foregoing is a full, true, and accurate transcript of the proceedings had in the foregoing matter, all done to the best of my skill and ability.

WITNESS my hand this 9th day of January, 2013.

SUSAN A. GRENZ
Certified Reporter
Certificate No. 50720